

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION**

ROBERT W. ODELL, JR., et al)	
)	
Plaintiffs,)	No.1:22-cv-12290-TLL-PTM
)	
v.)	Hon. Thomas L. Ludington
)	
KALITTA AIR, LLC, AND)	Magistrate Patricia T. Morris
CONRAD (“CONNIE”) KALITTA,)	
in only his official capacity,)	
)	
Defendants.)	

**DEFENDANTS’ NOTICE OF WAIVER OF RIGHT TO FILE
SUPPLEMENTAL MEMORANDUM IN SUPPORT OF THEIR MOTION
TO DISMISS CLAIMS OF CERTAIN PLAINTIFFS PURSUANT TO
FED. R. CIV. PRO. 12(b)(1) & THE RAILWAY LABOR ACT**

NOW COME Defendants, KALITTA AIR, LLC and CONRAD (“CONNIE”) KALITTA, in only his official capacity, by and through their attorneys, KELSEY LAW GROUP and FITZPATRICK, HUNT & PAGANO LLP and as their Notice of Waiver of Right to File Supplemental Memorandum in Support of Their Motion to Dismiss Claims of Certain Plaintiffs Pursuant to Fed. R. Civ. Pro. 12(b)(1) and the Railway Labor Act state as follows:

1. On December 2, 2022, Defendants filed the present Motion to Dismiss Claims of Certain Plaintiffs Pursuant to Fed. R. Civ. Pro. 12(b)(1) and the Railway Labor Act.

2. On February 14, 2023, after the motion was fully briefed, it was referred to the Honorable Magistrate Judge Patricia T. Morris for a report and recommendation pursuant to 28 U.S.C. § 6(b)(1)(B). [Dkt. No. 32] On March 6, 2023, the Court served the Notice of Intent to Construe (ECF No. 19) as a Motion for Summary Judgment. [Dkt. 34] The Court noted that conversion would be the appropriate route as Defendants' argument relies upon exhibits and factual matters not addressed in the Complaint. [Dkt. 34 at p. 3] The Court notified the parties of its intent to convert the motion to one for summary judgment, and allowed the Defendants to supplement their briefing, or file a written notice waiving their rights to supplement the briefing. [Dkt. 34 at pp. 4-5.]

3. Because the material facts are fully established by the record, including Defendants' moving papers, and those facts are not in dispute, Defendants see no need to burden the Court with an additional round of written submissions.

4. Accordingly, Defendants hereby waive their right to submit additional briefing on the pending motion at this time, as there is no genuine issue of disputed fact that would preclude granting summary judgment in favor of Defendants. Notwithstanding the foregoing, Defendants retain their right to submit additional argument to the Court, pending any supplemental response submitted by Plaintiffs, and their right to oppose any Rule 56(d) motion filed by Plaintiffs.

March 24, 2023

Respectfully Submitted,

**KALITTA AIR, LLC and
CONRAD (“CONNIE”) KALITTA
in only his official capacity**

By: /s/ Nicholas C. Bart
One of Their Attorneys

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